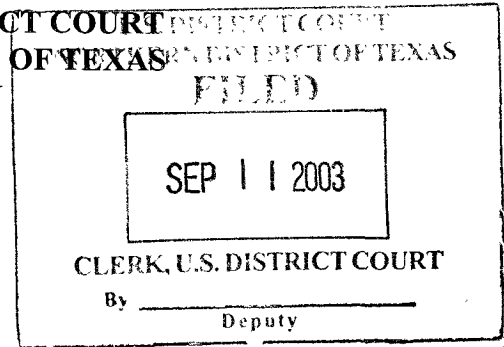


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



PERRYTON RADIO, INC.,
a Texas Corporation

Plaintiff,

VS.

AMERICAN TOWERS, INC. a
Delaware corporation, doing business as
AMERICAN TEXAS TOWERS, INC;
AMERICAN TOWER CORPORATION, a
Delaware corporation; ATC GP, INC.,
a Delaware corporation, the General Partner
of AMERICAN TOWER, L.P., a Delaware
Limited Partnership; FRED R. LUMAS;
MARTY L. JIMMERSON; GEORGE B.
KELLY; ALAN BOX; BRADLEY E.
SINGER; DAVID J. PORTE; DAVID
REDLICK; DEBBIE HUTTENBURG;
DOUGLAS C. WIEST; GARY HESS;
J. MICHAEL GEARON, JR., JAMES
MICHAEL PEERY; JAMES P. BOURNE;
JAMES S. EISENSTEIN; JAMES
TAICLET; JEROME C. KLINE; JOHNNY
J. "SONNY" PETERMAN; JOSEPH L.
WINN; JUSTIN D. BENINCASA;
MATTHEW J. GARDELLA; MICHAEL
MCDERMOTT; MICHAEL MILSOM;
NORMAN A. BIKALES; PETER
SANDORE; ROBERT J. MORGAN;
ROBERT MAWREY; ROSS W. ELDER;
STEVEN B. DODGE; STEVEN
MOSKOWITZ; W. ROBERT
KELLEGREW, JR.,; WILLIAM H. HESS;
and WILLIAM J. CURRY

Defendants.

CIVIL ACTION NO. _____

2003-09-11

NOTICE OF REMOVAL OF CIVIL ACTION

TO THE HONORABLE JUDGE OF THE COURT:

COME NOW Defendants American Towers, Inc. d/b/a American Texas Towers, Inc. and John J. "Sonny" Peterman (collectively referred to as "Defendants") and give this Notice of Removal of Civil Action and in support thereof respectfully show the Court as follows:

1. This civil action is pending in the 84th District Court for Ochiltree County, Texas. The case originally was filed on August 6, 2003.

2. The first services of process and citation was made on Defendant American Towers, Inc., on August 12, 2003.

3. Plaintiff's First Amended Original Petition alleges that Defendants "individually and/or collectively, has/have failed to comply with the rules and regulations of the FCC (Federal Communications Commission) for an unknown period of time." (p. 10-11)

4. Notice of Removal is being filed in accordance with 28 U.S.C. § 1446(b) within thirty (30) days of Plaintiff's first service of process and citation on Defendants in this case on August 12, 2003.

5. The United States District Court for the Northern District of Texas has original jurisdiction pursuant to 28 U.S.C. § 1331 (Federal question) because Plaintiff's claims arise under the United States Constitution and laws of the United States.

6. Alternatively, this action falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332(a) (Diversity of Citizenship) and is one which may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. § 1441(b) and (c).

7. At all times material herein, Plaintiff and Defendants are and were citizens of different states except Plaintiff's First Amended Petition names as Defendants Fred R. Lummis, Marty L. Jimmerson, George B. Kelly, all or some of whom are citizens of the same state as Plaintiff. The citizenship of said Defendants should be disregarded for the purpose of determining diversity jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441(b) on the grounds there is no possibility

that Plaintiff will be able to establish liability against said Defendants; they are sham or fraudulently joined parties. There is no possibility that Plaintiff can prove their cause of action against these Defendants. Disregarding these Defendants, none of the Defendants are citizens of the State of Texas, and this action may be removed to this Court by Defendants because this is a civil action between citizens of different states, and the amount in controversy exceeds \$75,000.00. Exhibit "A" lists all Defendants and their citizenship.

8. Based on the Court's original jurisdiction of this case, it is properly subject to removal to this Court pursuant to 28 U.S.C. § 1441 (a) and (b) because substantial questions of federal law exist, the dispute is between citizens of different states, and the amount in controversy exceeds \$75,000.00.

9. Copies of all process, pleadings and orders filed in the 84th District Court for Ochiltree County, Texas, are attached hereto.

10. A copy of this Notice is being filed this date with the above referenced state court in accordance with the requirements of 28 U.S.C. § 1446 (d).

11. All Defendants who have been served with process in the lawsuit join in this Notice of Removal of Civil Action except American Tower Corporation and ATC GP, Inc. American Tower Corporation and ATC GP, Inc., who consent to the removal, which consent is attached as Exhibit "B."

Respectfully submitted,

Matthew H. Hand
State Bar No. 08819750
BROWN & FORTUNATO, P.C.
P. O. Box 9418
Amarillo, TX 79105-9418
Tel: (806) 345-6300
Fax: (806) 345-6363

By: 

Matthew H. Hand

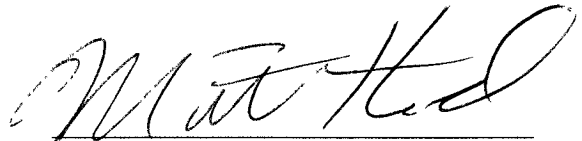
ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that on the 11 day of September, 2003 a true and correct copy of the above and foregoing Notice of Removal of Civil Action was served and properly addressed as follows:

Robert D. Lemon
Lemon, Shearer, Phillips & Good, P.C.
301 South Main
P.O. Box 1066
Perryton, TX 79070

Via Certified Mail RRR


Matthew H. Hand

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